

March 28, 2008

The Honorable Marilyn Hall Patel

Re: Dougherty v. AMCO Insurance Company  
U.S. District Court Case No. C 07-01140

Your Honor:

Plaintiff hereby withdraws the document filed as docket no. 52 and files this letter as a substitution. There are four specific areas in which Defendant AMCO has failed to provide discovery to Plaintiff:

1. AMCO failed to provide a Person Most Qualified to testify about “all data relied upon by AMCO in setting reserves for Plaintiff’s Claim.” The witness produced by AMCO candidly testified that he had no knowledge in this area. AMCO has not responded to Plaintiff’s requests that AMCO provide a witness with knowledge in this area.

2. AMCO has failed to produce the Colossus Narrative Report regarding Plaintiff’s Claim. AMCO has responded in discovery that it cannot locate the Colossus report in its own files and databases, and that the only other place that the Report might be found is in the archives and databases of Computer Sciences Corporation, AMCO’s contractor which owns and operates the Colossus system for AMCO. Plaintiff believes that, in the absence of this crucial evidence in AMCO’s own records, it has an affirmative obligation to attempt to obtain this Report from its contractor. AMCO has not responded requests to Plaintiff’s requests.

3. AMCO withheld documents in response to Plaintiff’s First Request for Documents until the parties entered into a Protective Order. The parties entered into the Protective Order on December 27, 2007. Plaintiff has reminded AMCO of its stated intention to produce these documents and AMCO has stated it would do so; however, no additional documents have been produced.

4. AMCO has redacted information from a single document on the grounds that the information contains subrogation information which is proprietary and/or a trade secret. Plaintiff disagrees on the grounds that subrogation is a standard industry practice and the information is likely to lead to the discovery of admissible evidence.

This Court has ordered the parties to comply with an abbreviated discovery schedule for purposes of AMCO’s recently filed motion for summary judgement. The outstanding items listed above are crucial to Plaintiff’s opposition. It is for this reason that Plaintiff is seeking the involvement of the Court at this time to compel AMCO to fulfill its outstanding discovery obligations.

/s/ David M. Porter  
David M. Porter  
Attorneys for Plaintiff

DMP:dmp/jag

**ATTESTATION PURSUANT TO GENERAL ORDER 45**

I, STEPHEN M. MURPHY, hereby declare as follows:

I am one of the attorneys of record for Plaintiff Christine Dougherty in this action and am duly licensed to practice law in the State of California and in the U.S. District Court for the Northern District of California.

I hereby attest that concurrence from attorney and declarant David M. Porter has been obtained in the filing of this Letter Brief.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct and, if called as a witness, I could testify competently thereto.

Executed at San Francisco, California, this 28th day of March, 2008.

/s/ Stephen M. Murphy  
STEPHEN M. MURPHY